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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,112

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Ole Kaac Hansen

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EXAMINER

CLARK, AMY LYNN

ART UNIT

PAPER NUMBER

1655

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,112	<b>Applicant(s)</b> HANSEN, OLE KAAE	
	<b>Examiner</b> Amy L. Clark	<b>Art Unit</b> 1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-8, drawn to a method of preparing an aqueous extract comprising saponins on basis of waste product from a shea butter tree.

Group II, claims 9 and 12, drawn to a butter tree extract obtainable by preparing an aqueous extract comprising saponins on basis of waste product from a shea butter tree.

Group III, claim 10, drawn to a method of producing an aqueous extract enriched with sapognins.

Group IV, claim 11, drawn to a sapogenin rich extract obtainable by producing an aqueous extract enriched with sapognins.

Group V, claim 13, drawn to a method of using a butter tree extract as a food additive.

Group VI, claim 14, drawn to a method of using a butter tree extract in the manufacture of a detergent.

Group VII, claim 15, drawn to a method of using a butter tree extract in the manufacture of a cosmetic product.

Group VIII, claim 16, drawn to a method of using a butter tree extract in the manufacture of a pharmaceutical product for topical application.

Group IX, claim 17, drawn to a method of using a butter tree extract in the manufacture of a pharmaceutical product for lowering the level of serum chlorestrol in a human being or other mammal.

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Group X, claim 18, drawn to a method of using a butter tree extract in the manufacture of a pharmaceutical product for treatment of inflammatory diseases.

Group XI, claim 19, drawn to a method of using a butter tree extract in the manufacture of a pharmaceutical product for systemic administration.

Group XII, claim 20, drawn to a method of using a butter tree extract in the manufacture of a nutritional supplement.

The inventions listed as Groups I-XII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical feature of Group I is a method of preparing an aqueous extract comprising saponins on basis of waste product from a shea butter tree. The special technical feature of Group II is a butter tree extract obtainable by preparing an aqueous extract comprising saponins on basis of waste product from a shea butter tree, which is not required for Group I. The special technical feature of Group III is a method of producing an aqueous extract enriched with sapognins, which is not required for Group I. The special technical feature of Group IV is a sapogenin rich extract obtainable by producing an aqueous extract enriched with sapognins, which is not required for Group I. The special technical feature of Group V is a method of using a butter tree extract as a food additive, which is not required for Group I. The special technical feature of Group VI is a method of using a butter tree extract in the manufacture of a detergent, which is not required for Group I. The special technical feature of Group VII is a method of using a butter tree extract in the manufacture of a cosmetic product, which is not required for Group I. The special technical feature of Group VIII is a method of using a butter tree extract in the manufacture of a pharmaceutical product for topical application, which is not required

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for Group I. The special technical feature of Group IX is a method of using a butter tree extract in the manufacture of a pharmaceutical product for lowering the level of serum chloesterol in a human being or other mammal, which is not required for Group I. The special technical feature of Group X is a method of using a butter tree extract in the manufacture of a pharmaceutical product for lowering the level of serum chloesterol in a human being or other mammal, which is not required for Group I. The special technical feature of Group XI is a method of using a butter tree extract in the manufacture of a pharmaceutical product for treatment of inflammatory diseases, which is not required for Group I. The special technical feature of Group XII is a method of using a butter tree extract in the manufacture of a nutritional supplement, which is not required for Group I. Finally, Claim 1, at least, is anticipated by or obvious over Oura et al. (US Patent Number 4,229,483). Oura teaches a method of preparing an aqueous extract of fine shea nut meal (please note that shea nut meal is a saponin-containing waste product from a shea butter tree and that the shea nut meal is filtered and ground prior to extraction, See column 2, lines 48-51 and lines 55-66) comprising mixing the shea nut meal with a 10-99% (w/v) aqueous ethanol solution, whereby the alcohol solution may be used in an amount of 0.05 to 5 times as much as the volume of shea nut meal (See column 3, lines 29-30 and 33-35) in the presence of an alkali (See column 3, lines 59-668 and continued into column 4, lines 1-8) at a pH of 7.15 or 7.41 (See column 6, table 2) and the solids can be removed by filtration (See column 7, Example 32). Oura does not expressly teach the removal of saponins, however, saponins are inherent to the starting material used by both Oura and Applicant, and the

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method taught by Oura is the same as that claimed by Applicant. Consequently, the special technical feature which links the claims does not provide a contribution over the prior art, so the invention lacks unity.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species groups are as follows:

Group I:

Specie A: elect one alkali from claim 2 or 3.

Specie B: elect either filtration or centrifugation from claim 6.

Specie C: elect a method of obtaining or purifying the extract from claim 8.

Group III:

Specie A: elect either enzymatic or acid hydrolysis from claim 10.

Group IX:

Specie A: elect human being or other mammals from claim 17.

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Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Group I:

Specie A: claims 2 and 3.

Specie B: claim 6.

Specie C: claim 8.

Group III:

Specie A: claim 10.

Group IX:

Specie A: claim 17.

The following claim(s) are generic: 1, 4, 5, 7, 9, 12-16 and 18-20.

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The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The prior art suggests a method of preparing an aqueous extract comprising saponins on basis of waste product from a shea butter tree.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

\* Applicant is advised that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site ([www.uspto.gov](http://www.uspto.gov)), from the Office of Public Records and from commercial sources. Should you receive inquiries about the use of the Office's PAIR system, applicants may be referred to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy L. Clark whose telephone number is (571) 272-1310. The examiner can normally be reached on 8:30am - 5pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amy L. Clark  
AU 1655

Amy L. Clark  
January 23, 2006

*Michele C. Flood*  
**MICHELE FLOOD**  
**PRIMARY EXAMINER**